



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: East Indianapolis Venture

File: B-234433

Date: March 15, 1989

DIGEST

A protester challenging a contract award is not an interested party under General Accounting Office's Bid Protest Regulations, and its protest is therefore dismissed, where it would not be in line for award if its protest were upheld.

DECISION

East Indianapolis Venture protests the award of a contract to Gold Enterprises, Incorporated, under invitation for bids (IFB) No. DABT15-89-B-0005, a small business set-aside issued by the Department of the Army for lodging and meal service for the Indianapolis, Indiana, Military Entrance Processing Center (MEPS). East Indianapolis Venture alleges that Gold misrepresented itself as a small business and is therefore not qualified to receive award of a contract and that no award could be made to Gold because its bid was submitted in a corporate name somewhat different from that under which the awardee actually was incorporated.

We dismiss the protest.

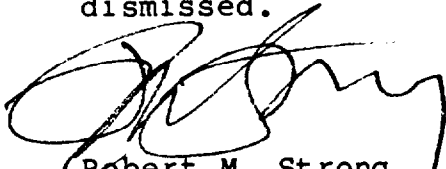
Much of the protester's allegations, to the effect that the awardee is but a recently-incorporated "front" for a large business, concern the responsibility and the size status of the awardee. Both of these issues are for resolution by the Small Business Administration (SBA), which by statute has the authority to certify as to the competency of, and to determine the size status of, small business concerns, and the procuring activity advises that those issues have been appropriately referred to the SBA. To the extent we have for our consideration a protest on the basis that the award was improper because the corporate name used was inaccurate, we find the protest is for dismissal because the protester is not an "interested party."

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Under our Bid Protest Regulations, a party must be interested before we will consider its protest on the merits. 4 C.F.R. § 21.1(a) (1988). A party will not be deemed interested where it would not be in line for award if its protest were sustained. Robert Slye Electronics, Inc., B-231648.2, Aug. 19, 1988, 88-2 CPD ¶ 162.

Award here was to be made to the lowest-priced, responsive and responsible bidder. The record shows that East Indianapolis Venture was only the third lowest bidder behind Gold and then Inntowner Motel. In its initial correspondence, the protester alleged that the second low bidder had been determined to be nonresponsive because its rooms were too small and, therefore, was not in line for award. The Army, however, has specifically refuted this contention and stated that no such determination has been made, and that therefore, the Inntowner Motel remains the second low bidder. In response, the protester has asked us to decide the matter on the existing record.

Since the sole ground suggested by the protester for rejecting the second low bid has been refuted by the Army, without rebuttal, it appears that the Inntowner Motel, not East Indianapolis Venture, would be next in line for award if the protest were sustained. East Indianapolis, therefore, is not an interested party, Robert Slye Electronics, Inc., B-231648.2, supra, and its protest is therefore dismissed.



Robert M. Strong
Associate General Counsel